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April 5, 1983

Mr. Richard M. Flynn, Commissioner  
Department of Safety  
Hazen Drive  
Concord, New Hampshire 03301

Re: Composition of the State Advisory Board  
of Fire Control

Dear Mr. Flynn:

You have asked whether a chief of a volunteer fire department who is a member of the State Advisory Board of Fire Control may continue to serve as a Board member after his resignation from his position as chief. It is my informal opinion that the answer to your question is "yes."

RSA 153:2 establishes a Board of nine members, each appointed by the governor with the advice and consent of the council, and sets forth its membership requirements. That section provides that the Board members "shall be persons with experience and background in" nine separate fields or categories of employment, the last of which is "(9) the position of chief of a volunteer fire department." That section further provides that members shall be appointed for terms of five years.

This statute does not expressly provide that the volunteer fire chief, or any other Board member, serves in an ex officio capacity only; it establishes as a qualification for membership merely that one member be a person "with experience and background in ... the position of chief of a volunteer fire department." If the legislature intended that one member "shall be" a volunteer fire chief, it could easily so provide. The legislature in fact has arguably done so in category (3) of RSA 153:2,



which requires one member to have the dual qualifications of experience and background in "the position of forest fire warden and who is a chief of a volunteer or full-time fire department."

Assuming that the Board member who is the subject of your inquiry was appointed to the Board to fill category (9) rather than (3), he is not disqualified from membership for his full five-year term by virtue of his resignation as chief because he is only required to have "experience and background in" that position.

If I can be of further assistance, please let me know.

Very truly yours,

*Betsy S. Westgate*

Betsy S. Westgate  
Assistant Attorney General  
Division of Legal Counsel

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